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2300 N STREET, N. W.
WASHINGTON, D. C. 20037

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(202) 663-8007

1501 FARM CREDIT DRIVE
MCLEAN, VIRGINIA 22102-5004
(703) 790-7900

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201 LIBERTY STREET, S.W.
LEESBURG, VIRGINIA 22075
(703) 777-0004
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FACSIMILE
(703) 777-9320

JILL A. STERN
(202) 663-8380

September 29, 1994

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

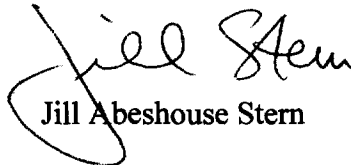
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Re: **Ex Parte Presentation**
CC Docket No. 92-166

Dear Mr. Caton:

On September 28, 1994, the undersigned counsel for Mobile Communications Holdings, Inc. (MCHI) and Gerald Helman, Vice President, International Policy and Programs, MCHI, met with Karen Brinkman. The discussion focused on the "Joint Proposal and Settlement Agreement" in CC Docket 92-166 to which MCHI is a party. Attached hereto are written materials that were provided to Commission Staff at the meeting.

Respectfully submitted,


Jill Abeshouse Stern

cc: Karen Brinkman

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BRIEFING PAPER
FINANCIAL QUALIFICATIONS ISSUE

- The September 9, 1994 "Joint Proposal and Settlement Agreement" reflects agreement among four of the five Big LEO applicants with respect to a financial qualifications standard that comports with the financial realities of financing a global satellite system and will assure that licensees move forward expeditiously with system implementation. Loral did not object to the financial standard in its September 13 filing.
- The Agreement provides for a showing of financial preparedness at the time of licensing, with a requirement to demonstrate strict financial qualifications for 25% of the constellation one year after grant. In addition, permittees must meet strict milestone schedules for construction, launch and system operation.
- The financial standard set forth in the Agreement benefits both large and small companies, reflects an accommodation reached after extensive negotiations between the parties, and is a material condition of the Agreement that the Commission should hesitate to reject.
- Under the spectrum sharing approach set forth in the Agreement, all of the LEO systems can be accommodated so any concern about spectrum warehousing is mooted. Unlike situations involving limited orbital slots and mature satellite industries (where strict financial standards have been applied), all of the LEO systems will have sufficient spectrum to begin operations under the proposed sharing plan.
- The proposed financial standard is consistent with Commission precedent relating to new satellite services, including NVNG MSS, RDSS, DBS and private international satellite systems. In the satellite field, the Commission has historically provided a flexible financial standard tailored to the particular circumstances to facilitate implementation of new, innovative satellite services.
- Application of the strict domsat standard would discriminate against small businesses which do not typically have a balance sheet reflecting assets from other lines of business unrelated to the satellite project. As a practical matter, established, large corporations would only need display a balance sheet with no irrevocable commitment. In contrast, small companies would be required to demonstrate irrevocability. In other words, the playing field would not be level. The Commission should not foreclose participation by small and minority businesses, which participation is a national policy objective supported consistently by Congress and successive administrations.

- As a practical matter, if the Commission is to expedite licensing of the Big LEO systems, it will not be practicable to impose a strict domsat standard at this late date, requiring fully negotiated irrevocable debt or equity commitments (from companies that do not intend to rely on a balance sheet test) within a short amendment period (e.g. 30 days.) Loans or equity commitments of the magnitude required cannot be negotiated, drafted and executed within an artificial 30 day time-frame.
- Finally, the FCC should not anticipate the marketplace. All applicants will have to go to the financial markets for funding. None will rely on existing corporate resources for more than a small fraction of overall cost. The marketplace should be allowed to reach its own judgment regarding the merits of competing systems. Success will be reflected in the ability of an applicant to obtain the financing needed to meet stated construction, launch and operational milestones.